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Attorneys for Plaintiff Sabert Corporation

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

-----)	
SABERT CORPORATION,) Civil Action No.
)	
Plaintiff,)
)	
v.) COMPLAINT
)	PATENT INFRINGEMENT
PWP INDUSTRIES, INC.,)
)	(Trial by Jury Demanded)
Defendant.)
-----)	

Plaintiff, Sabert Corporation ("Sabert"), for its Complaint against Defendant PWP Industries, Inc. ("PWP"), alleges as follows:

THE PARTIES

1. Sabert is a New Jersey corporation with a principal place of business at 2288 Main Street Extension, Sayreville, NJ 08872.
2. Upon information and belief, PWP is a California corporation with a principal place of business at 5500 South Boyle Avenue, Vernon, CA 90058.
3. Upon information and belief, PWP regularly conducts business throughout the United States and within this judicial district.

JURISDICTION AND VENUE

4. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*
5. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and/or 1338.
6. Venue in this Court is proper pursuant to 28 U.S.C. §§ 1391(b)-(c) and 1400(b).

GENERAL ALLEGATIONS

7. United States Patent No. 8,672,166 (“the ‘166 Patent”), entitled “RESEALABLE FOOD CONTAINER WITH LID HAVING A TAMPER EVIDENT TEAR AWAY BAND,” was issued by the United States Patent and Trademark Office on March 18, 2014. A true and correct copy of the ‘166 Patent is attached hereto as Exhibit A.
8. Sabert is the owner of the ‘166 Patent.
9. Sabert is a well-known designer, manufacturer and distributor of containers for packaging, displaying, serving and storing food products, including proprietary food containers having innovative tamper-evident features, including the container for which Sabert obtained the ‘166 Patent (“Sabert’s Patented Containers”).

10. Upon information and belief, PWP has manufactured, used, offered for sale and/or sold in the United States, and/or imported into the United States, food containers that infringe Sabert's '166 Patent. Upon information and belief, PWP's infringing food containers are depicted in the brochure attached hereto as Exhibit B.

COUNT I – CLAIM FOR PATENT INFRINGEMENT

11. Sabert incorporates by reference paragraphs 1-10 of this Complaint as if fully set forth herein.
12. Upon information and belief, in violation of 35 U.S.C. § 271, PWP has made, used, offered for sale and/or sold, and/or imported into the United States, and continues to make, use, offer for sale and/or sell in New Jersey and elsewhere in the United States, and/or import into the United States, food containers that infringe Sabert's 166 Patent.
13. Upon information and belief, PWP will continue said infringement unless enjoined by this Court.
14. As a result of PWP's infringement of the '166 Patent, PWP has made and will continue to make unlawful gains and profits, and Sabert has been and will continue to be deprived of revenue that it would otherwise have generated but for such infringement.
15. As a result of PWP's acts of infringement, PWP has unjustly profited and Sabert has been damaged.
16. Sabert has been and will continue to be irreparably harmed by PWP's infringement of the '166 Patent.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Sabert requests a trial by jury on all issues so triable.

PRAYER FOR RELIEF

Wherefore, Sabert prays for relief as follows:

- A. A judgment that PWP has infringed the '166 Patent;
- B. An order pursuant to 35 U.S.C. § 283 enjoining and restraining PWP, its officers, directors, agents, servants, employees, affiliates, attorneys and all others in active concert or participation with PWP, from infringing the '166 Patent;
- C. An order pursuant to 35 U.S.C. § 283 compelling PWP to deliver up for destruction any molds or other tools especially adapted for manufacture of the infringing containers;
- D. An accounting of PWP's sales of food containers that infringe the '166 Patent, including sales that occur after the close of fact discovery in this action;
- E. A judgment pursuant to 35 U.S.C. § 284 awarding Sabert its damages, but not less than a reasonable royalty, resulting from PWP's infringement of the '166 Patent, including damages suffered by Sabert as a result of PWP's acts of infringement of the '166 Patent subsequent to the close of fact discovery in this action;
- F. A judgment awarding Sabert its costs, disbursements and attorneys' fees incurred in prosecuting this action pursuant to 35 U.S.C. §§ 284 and/or 285;
- G. A judgment awarding Sabert pre- and post-judgment interest on any monetary award; and
- H. Such other and further relief as the Court may deem just, equitable, and proper.

Dated: October 21, 2014

Respectfully submitted,

s/ Marilyn Neiman
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Attorneys for Plaintiff Sabert Corporation

#21033919

CERTIFICATION PURSUANT TO L. CIV. R. 11.2

I certify that to the best of my knowledge, the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

Dated: October 21, 2014

Respectfully submitted,

s/ Marilyn Neiman
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Attorneys for Plaintiff Sabert Corporation

CERTIFICATION PURSUANT TO L. CIV. R. 201.1

Plaintiff Sabert Corporation (“Plaintiff”), by its undersigned counsel, hereby certifies pursuant to Local Civil Rule 201.1 that, in addition to monetary damages, Plaintiff seeks injunctive relief and, therefore, this action is not appropriate for compulsory arbitration.

Dated: October 21, 2014

Respectfully submitted,

s/ Marilyn Neiman
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